

**SETTLEMENT AGREEMENT BETWEEN STATE BOARD OF PHARMACY
AND KIMBERLY SCOTT, R.Ph.**

Come now Kimberly Scott, R.Ph. ("Scott") and the Missouri State Board of Pharmacy ("the Board") (collectively "the parties") and enter into this settlement agreement for the purpose of resolving the question of whether Scott's pharmacy license will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 2000, the parties hereto waive the right to a hearing before the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the Board under § 621.110 RSMo 2000, and stipulate and agree that a final disposition of this matter may be effectuated as described below.

Scott acknowledges that she understands the various rights and privileges afforded her by law, including the right to a hearing of the charges against her; the right to appear and be represented by legal counsel; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against her; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against her and, subsequently the right to a disciplinary hearing before the Board at which time it may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against her license. Being aware of these rights provided to Scott by operation of law, Scott knowingly and voluntarily waives each

and every one of these rights and freely enters into this agreement and agrees to abide by the terms of this document as they pertain to her.

Scott acknowledges that she has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or regulations the Board believes were violated. For the purpose of settling this dispute, Scott stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Board that Scott's pharmacy license, number 2002014010 is subject to disciplinary action by the Board in accordance with the provisions of Chapters 621 and 338, RSMo.

I.

JOINT STIPULATION OF FACTS AND CONCLUSIONS OF LAW

The Parties

1. The Missouri State Board of Pharmacy ("the Board") is an agency of the State of Missouri created pursuant to § 338.140, RSMo¹ for the purpose of executing and enforcing the provisions of Chapter 338, RSMo.

2. Kimberly Scott, R.Ph. ("Scott") is registered with the Board as a pharmacist, registration number 2002014010 ("license"). Scott's license was current and active at all times relevant herein.

Medicine Shoppe Compounding Activities

¹ Unless otherwise noted, all references are to the 2000 Revised Statutes of Missouri.

3. Medicine Shoppe is a pharmacy, permit number 005742, located at 726 North Highway 7 in Lee's Summit, Missouri.

4. At all times relevant herein, Scott acted as the pharmacist-in-charge of Medicine Shoppe.

5. As pharmacist-in-charge, Scott formed a relationship of professional trust and confidence with Medicine Shoppe and its customers.

6. At all times relevant herein, Cynthia Lee Simmermon ("Simmermon") was registered by the Board as a pharmacy technician, registration number 1999140015.

7. Medicine Shoppe compounds a small number of drugs at its facility containing Biest, Triest, progesterone, testosterone, and dehydroepiandrosterone, all of which are used in Hormone Replacement Therapy.

8. Biest (also referred to as Bi-est) is a combination of two estrogens: estriol and estradiol.

9. Triest (also referred to as Tri-est) is a combination of three estrogens: estriol, estradiol, and estrone.

10. Progesterone is a steroid hormone involved in the female menstrual cycle, pregnancy, and embryogenesis.

11. Testosterone is a steroid hormone which acts as the primary male sex hormone and an anabolic steroid.

12. Dehydroepiandrosterone ("DHEA") is a hormone which acts as a precursor to both male and female sex hormones.

CAUSE I

Failure of Compounds to Meet Compendial Standards

13. All preceding paragraphs are incorporated by reference as if fully set forth herein.
14. On or about March 2, 2006, a Board investigator conducted a routine inspection of Medicine Shoppe ("March 2 Investigation").
15. During the March 2 Investigation, the Board's investigator collected samples of the following compounded drugs for analysis:
 - a. 5 Biest 2 0 mg/Progesterone 100 mg capsules;
 - b. 5 Biest 2 5 mg/Pregnenolone 50 mg/Progesterone 100 mg capsules;
 - c. 5 Triest 0 3 mg/Progesterone 100 mg/DHEA 20 mg/Testosterone 0 1 mg capsules.
16. Simmermon, Medicine Shoppe's pharmacy technician, compounded the samples identified above.
17. The above samples were sent to Analytical Research Laboratories ("ARL") for testing and review.
18. ARL made the following determination regarding the compounds collected during the March 2 Investigation:
 - a. 5 Biest 2 0 mg/Progesterone 100 mg capsules failed in that
 - i. the amount of **estradiol** in the compound was only **75%** as potent as expected, and
 - ii. the amount of **estriol** in the compound was **112.5%** as potent as expected.

b. 5 Biest 2 5 mg/Pregnenolone 50 mg/Progesterone 100 mg capsules failed in that:

- i. the amount of **estradiol** in the compound was only **44%** as potent as expected, and
- ii. the amount of **estriol** in the compound was only **50%** as potent as expected.

c. 5 Triest 0 3 mg/Progesterone 100 mg/DHEA 20 mg/Testosterone 0 1 mg capsules failed in that:

- i. the amount of **DHEA** in the compound was only **81.5%** as potent as expected,
- ii. the amount of **estradiol** in the compound was **233.3%** as potent as expected,
- iii. the amount of **estriol** in the compound was **141.7%** as potent as expected,
- iv. the amount of **estrone** in the compound was **0%** as potent as expected, and
- v. the amount of **progesterone** in the compound was **165.1%** as potent as expected.

19. Section 338.010, RSMo, includes in its definition of the practice of pharmacy the compounding of drugs.

20. Board regulation 20 CSR 2220-2.090 requires that pharmacies employ and designate a pharmacist-in-charge when prescriptions are being compounded. The regulation further states:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....

(N) The pharmacist-in-charge will be responsible for the supervision of all pharmacy personnel, to assure full compliance with the pharmacy laws of Missouri;

....

(X) Compliance with all state and federal drug laws and rules [.]

21. Under 20 CSR 2220-2.700, relating to pharmacy technicians:

(1) A pharmacy technician is defined as any person who assumes a supportive role under the direct supervision and responsibility of a pharmacist and who is utilized according to written standards of the employer or the pharmacist-in-charge to perform routine functions that do not require the use of professional judgment in connection with the receiving, preparing, compounding, distribution or dispensing of medications.

22. Board regulation 20 CSR 2220-2.400, relating to compounding standards of practice, states:

(1) Compounding is defined as the preparation, incorporation, mixing or packaging or labeling of a drug or device as the result of a prescriber's prescription or prescription drug order based on the prescriber/patient/pharmacist relationship in the course of professional practice. Compounding may also be defined as the preparation, incorporation, mixing and packaging or labeling of a drug or device, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing purposes.

23. 20 CSR 2220-2.400(8), relating to the management of compounding, states:

(A) A pharmacist dispensing any compound drug is responsible for ensuring that the product has been prepared, labeled, controlled, stored, dispensed and distributed properly. The pharmacist is responsible for ensuring that quality is built into the preparation of products, with key factors including at least the following general principles:

....

2. Ingredients used in compounding have their expected identity, quality and purity. Drug components must meet compendial standards or maintain a certificate of analysis on file when bulk drugs substances are involved. Visual inspection of bulk drug substances must be performed[.]

24. As the pharmacist-in-charge of Medicine Shoppe, Scott was responsible for the oversight of Simmermon in regards to compounding the drugs described above.

25. Scott is responsible for the failure of the drugs described to meet the compendial standards required.

26. Section 338.055, RSMo, sets forth the grounds for which the Board may discipline the license of a pharmacist, stating, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any

person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....
(13) Violation of any professional trust or confidence;

....
(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government [.]

27. Scott's failure to ensure that Medicine Shoppe's compounds met compendial standards demonstrates misconduct in the performance of the functions and duties of a registered pharmacist.

28. Scott's failure to ensure that Medicine Shoppe's compounds met compendial standards violated 20 CSR 2220-2.400(8)(A)2.

29. Scott's failure to ensure that Medicine Shoppe's compounds met compendial standards violated the professional trust and confidence placed in her by Medicine Shoppe and its customers.

30. Scott's failure to ensure that Medicine Shoppe's compounds met compendial standards violated the drug rules and regulations of this State.

31. Cause therefore exists for the Board to take disciplinary action against Scott's registration under § 338.055.2(5), (6), (13), and (15), RSMo.

CAUSE II

Failure to Adequately Train and Supervise Pharmacy Technician

32. All preceding paragraphs are incorporated by reference as if fully set forth herein.

33. Scott was responsible for teaching Simmermon the methods and procedures for compounding drugs, and for supervising her compounding activities at Medicine Shoppe.

34. Simmermon compounded the samples collected during the March 2 Investigation described in Cause I.

35. As described in Cause I, Simmermon's samples failed to meet compendial standards.

36. Section 338.010, RSMo, includes in its definition of the practice of pharmacy the compounding of drugs.

37. Board regulation 20 CSR 2220-2.090 requires that pharmacies employ and designate a pharmacist-in-charge when prescriptions are being compounded. The regulation further states:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....

(N) The pharmacist-in-charge will be responsible for the supervision of all pharmacy personnel, to assure full compliance with the pharmacy laws of Missouri;

....

(X) Compliance with all state and federal drug laws and rules [.]

38. Under 20 CSR 2220-2.700, relating to pharmacy technicians:

(1) A pharmacy technician is defined as any person who assumes a supportive role under the direct supervision and responsibility of a pharmacist and who is utilized according to written standards of the employer or the pharmacist-in-charge to

perform routine functions that do not require the use of professional judgment in connection with the receiving, preparing, compounding, distribution or dispensing of medications.

39. Board regulation 20 CSR 2220-2.400, relating to compounding standards of practice, states:

(1) Compounding is defined as the preparation, incorporation, mixing or packaging or labeling of a drug or device as the result of a prescriber's prescription or prescription drug order based on the prescriber/patient/pharmacist relationship in the course of professional practice. Compounding may also be defined as the preparation, incorporation, mixing and packaging or labeling of a drug or device, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing purposes.

40. 20 CSR 2220-2.400(8), relating to the management of compounding, states:

(A) A pharmacist dispensing any compound drug is responsible for ensuring that the product has been prepared, labeled, controlled, stored, dispensed and distributed properly. The pharmacist is responsible for ensuring that quality is built into the preparation of products, with key factors including at least the following general principles:

1. Personnel are capable and qualified to perform their assigned duties [.]

41. Section 338.055, RSMo, sets forth the grounds for which the Board may discipline the registration of a pharmacist, stating, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government [.]

42. Scott failed to adequately teach and supervise Simmermon regarding the proper methods and procedures for compounding the drugs described above.

43. Scott's failure to adequately teach and supervise Simmermon regarding the proper methods and procedures for compounding drugs demonstrates incompetence in her performance of the functions and duties of a registered pharmacist.

44. Scott's failure to adequately teach and supervise Simmermon regarding the proper methods and procedures for compounding drugs violated 20 CSR 2220-2.400(8)(A)1.

45. Scott's failure to adequately teach and supervise Simmermon regarding the proper methods and procedures for compounding drugs violated the professional trust and confidence placed in her by Medicine Shoppe and its customers.

46. Scott's failure to adequately teach and supervise Simmermon regarding the proper methods and procedures for compounding drugs violated the drug rules and regulations of this State.

47. Cause therefore exists for the Board to take disciplinary action against Scott's registration under § 338.055.2(5), (6), (13), and (15), RSMo.

CAUSE III.

Failure to Establish Facility Conditions for Preventing Compounding Errors

48. All preceding paragraphs are incorporated by reference as if fully set forth herein.

49. The area of Medicine Shoppe where compounding was performed was beneath an air vent.

50. The proximity of the air vent to the compounding area caused Medicine Shoppe's scale to be inaccurate at times when used for weighing substances during compounding.

51. Section 338.010, RSMo, includes in its definition of the practice of pharmacy the compounding of drugs.

52. Board regulation 20 CSR 2220-2.090 requires that pharmacies employ and designate a pharmacist-in-charge when prescriptions are being compounded. The regulation further states:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....
(X) Compliance with all state and federal drug laws and rules [.]

53. 20 CSR 2220-2.400(8), relating to the management of compounding, states:

(A) A pharmacist dispensing any compound drug is responsible for ensuring that the product has been prepared, labeled, controlled, stored, dispensed and distributed properly. The pharmacist is responsible for ensuring that quality is built into the preparation of products, with key factors including at least the following general principles:

....

4. Preparation conditions and procedures are adequate for preventing mix-ups or other errors.

54. Section 338.055, RSMo, sets forth the grounds for which the Board may discipline the registration of a pharmacist, stating, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of the drug laws or rules and

regulations of this state, any other state or the federal government [.]

55. Scott failed to ensure that the area of Medicine Shoppe used for compounding would prevent compounding errors when she allowed compounding to occur in an area in proximity to a vent which caused the compounding scale to be inaccurate.

56. Scott's failure to ensure the compounding area of Medicine Shop would prevent errors demonstrates misconduct in the performance of the function and duties of a registered pharmacist.

57. Scott's failure to ensure the compounding area of Medicine Shop would prevent errors violated 20 CSR 2220-2.400(8)(A)4.

58. Scott's failure to ensure the compounding area of Medicine Shop would prevent errors violated the professional trust and confidence placed in her by Medicine Shoppe and its customers.

59. Scott's failure to ensure the compounding area of Medicine Shop would prevent errors violated the drug rules and regulations of this State.

60. Cause therefore exists for the Board to take disciplinary action against Scott's registration under § 338.055.2(5), (6), (13), and (15), RSMo.

CAUSE IV

61. All preceding paragraphs are incorporated by reference as if fully set forth herein.

62. After learning that the above-referenced compounds failed, Scott failed to initiate a recall of the improperly compounded prescriptions.

63. Because the above-referenced compounds failed, they were misbranded by Medicine Shoppe.

64. Under 20 CSR 2220-2.400(8)(C), a recall must be initiated when a product is deemed to be misbranded or adulterated.

65. Board regulation 20 CSR 2220-2.090 requires that pharmacies employ and designate a pharmacist-in-charge when prescriptions are being compounded. The regulation further states:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....

(X) Compliance with all state and federal drug laws and rules [.]

66. Section 338.055, RSMo, sets forth the grounds for which the Board may discipline the license of a pharmacist, stating, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....
(13) Violation of any professional trust or confidence;

....
(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government [.]

67. Scott failed initiate a recall of the misbranded drugs described above.

68. Scott's failure to initiate a recall of the misbranded drugs described above demonstrates incompetence in her performance of the functions and duties of a registered pharmacist.

69. Scott's failure to initiate a recall of the misbranded drugs described above violated 20 CSR 2220-2.400(8)(C).

70. Scott's failure to initiate a recall of the misbranded drugs described above violated the professional trust and confidence placed in her by Medicine Shoppe and its customers.

71. Scott's failure to initiate a recall of the misbranded drugs described above violated the drug rules and regulations of this State.

72. Cause therefore exists for the Board to take disciplinary action against Scott's registration under § 338.055.2(5), (6), (13), and (15), RSMo.

CAUSE V

73. All preceding paragraphs are incorporated by reference as if fully set forth herein.

74. The Medicine Shoppe compounding log sheets which were reviewed during the March 2 Investigation were incomplete in the following ways:

- a. The compounding log sheet for Nifetapine 0.3% Lidocaine 1.5% in Lanolin/Vaseline base dated May 19, 2006 contained no expiration or beyond use date;
- b. The compounding log sheet for Metranidazole 100mg/5ml Suspension dated May 26, 2006 contained no expiration or beyond use date;
- c. The compounding log sheet for Nomlands Lotion dated May 26, 2006 contained:
 - i. no lot number of the corn starch, and
 - ii. no expiration or beyond use date;
- d. The compounding log sheet for Omeprazole 2mg/ml Suspension dated March 14, 2006 contained:
 - i. an incorrect expiration date of March 14, 2007, and
 - ii. no expiration dates for its ingredients;
- e. The compounding log sheet for Omeprazole 2mg/ml Suspension dated March 20, 2006, contained:
 - i. no lot number for Sodium Bicarbonate, and
 - ii. no expiration date for either of its ingredients;
- f. The compounding log sheet for Omeprazole 2mg/ml Suspension dated April 17, 2006 contained no expiration date for the sodium bicarbonate contained therein;

- g. The compounding log sheet for Omeprazole 2mg/ml Suspension dated April 25, 2006 contained:
 - i. no lot number for the sodium bicarbonate contained therein, and
 - ii. no expiration date for either of its ingredients;
- h. The compounding log sheet for Omeprazole 2mg/ml Suspension dated May 10, 2006 contained:
 - i. an incorrect expiration date of "5-07",
 - ii. no lot number for the sodium bicarbonate contained therein, and
 - iii. no expiration date for either of its ingredients;
- i. The compounding log sheet for Prevacid 3mg/ml Suspension dated May 25, 2006 contained:
 - i. in incorrect expiration date of "5 07", and
 - ii. no expiration date for either of its ingredients;
- j. The compounding log sheet for Triamcolone 0 1% Ointment in Moisture Cream dated April 12, 2006 contained:
 - i. No prescription number, and
 - ii. No expiration date for either ingredient;
- k. The compounding log sheet for Fluocinonide 0 05% LCD 5% Sulfur 2% Cream contained:
 - i. No date of compounding,
 - ii. No expiration date for its ingredients, and
 - iii. No manufacturer or lot number for the sulphur contained therein.

75. Under 20 CSR 2220-2.400(7)

Appropriate quality control measures shall be maintained by the pharmacy and its staff over compounding methods.

(A) Such methods shall include the following and shall be followed in the execution of the drug compounding process. A separate log shall be maintained which includes:

....

2. Date of compounding;

....

6. The identity of the source, lot number and the beyond-use date of each drug product/ingredient, as well as an in-house lot number and a beyond-use date for bulk compounded products; and

7. An identifying prescription number or a readily retrievable unique identifier for which the compound was dispensed.

76. Board regulation 20 CSR 2220-2.090 requires that pharmacies employ and designate a pharmacist-in-charge when prescriptions are being compounded. The regulation further states:

(2) The responsibilities of a pharmacist-in-charge, at a minimum, will include:

....

(X) Compliance with all state and federal drug laws and rules [.]

77. Section 338.055, RSMo, sets forth the grounds for which the Board may discipline the registration of a pharmacist, stating, in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her

certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government [.]

78. Scott failed maintain appropriate logs for the compounded prescriptions described above.

79. Scott's failure to maintain appropriate logs for the compounded prescriptions described above demonstrates misconduct in her performance of the functions and duties of a registered pharmacist.

80. Scott's failure to maintain appropriate logs for the compounded prescriptions described above violated 20 CSR 2220-2.400(7).

81. Scott's failure to maintain appropriate logs for the compounded prescriptions described above violated the professional trust and confidence placed in her by Medicine Shoppe and its customers.

82. Scott's failure to maintain appropriate logs for the compounded prescriptions described above violated the drug rules and regulations of this State.

83. Cause therefore exists for the Board to take disciplinary action against Scott's registration under § 338.055.2(5), (6), (13), and (15), RSMo.

II.

JOINTLY AGREED DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Board in this matter under the authority of § 621.045.3, RSMo 2000.

84. Scott's pharmacy license is hereby **CENSURED**. Scott is admonished by the Board for the deficiencies in her former practice. Scott shall hereafter (1) take all necessary and appropriate steps to ensure that substances which she compounds meet current compendial standards; (2) adequately train and supervise any and all future pharmacy assistants and aids, including, but not limited to, pharmacy technicians; and (3) perform compounding only in areas suitable for that activity, and which enable the pharmacist or assistant to conform to compendial standards for compounds.

85. The parties to this Agreement understand that the Board of Pharmacy will maintain this agreement as an open record of the Board as provided in Chapters 338, 610, and 620, RSMo.

86. The terms of this settlement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this settlement agreement nor any of its provisions may be changed, waived, discharged, or terminated,

except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

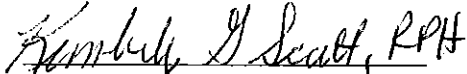
87. Scott hereby waives and releases the Board, its members and any of its employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement or any portion thereof void or unenforceable.

88. Scott understands that she may, either at the time the settlement agreement is signed by all parties, or within fifteen (15) days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Scott's pharmacy registration. If Scott desires the Administrative Hearing Commission to review this Agreement, Scott may submit its request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.

89. If Scott requests review, this settlement agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the settlement agreement sets forth cause for disciplining Scott's registration. If Scott does


not request review by the Administrative Hearing Commission, the settlement agreement goes into effect fifteen days after the document is signed by the Executive Director of the Board.

LICENSEE


Kimberly Scott, R.Ph.


Date 5-11-08

BOARD


Debra Ringgenberg
Executive Director
State Board of Pharmacy

Date 5-27-08

JEREMIAH W. (JAY) NIXON
Attorney General



REX P. FENNESSEY
Assistant Attorney General
Missouri Bar No. 58925

7th Floor, Broadway State Office Building
221 West High Street
P.O. Box 899
Jefferson City, MO 65101
Telephone: 573-751-5064
Telefax: 573-751-5660

**ATTORNEYS FOR MISSOURI
STATE BOARD OF PHARMACY**